

# **EXHIBIT E**

**Case No. 21-CV-0811-TSZ**

**(Motion to Substitute Expert Witness)**

**Subject:** RE: [EXTERNAL]RE: Bungie Inc v. Aimjunkies.com et al -- W.D. WA Case No. 2:21-cv-00811-TSZ -- Request for telephonic hearing pursuant to W.D.WA LR 26(i)

**From:** John Du Wors <John@newmanlaw.com>

**Date:** 6/7/23, 5:02 PM

**To:** Tyler Lichter <Tyler\_Lichter@wawd.uscourts.gov>, "Marcelo, Christian W. (SEA)" <CMarcelo@perkinscoie.com>

**CC:** "Rava, William C. (SEA)" <WRava@perkinscoie.com>, "Dini, Jacob (SEA)" <JDini@perkinscoie.com>, Phil Mann <phil@mannlawgroup.com>, Chy Eaton <chy@newmanlaw.com>, Alexis Brewer <alexis@newmanlaw.com>

Dear Mr. Lichter,

Mr. Kraemer has not yet resolved his discovery dispute with Bungie, Inc.. Accordingly, Mr. Kraemer respectfully requests a telephone conference with either you or Judge Zilly tomorrow, if of course that is convenient for the Court's schedule and/or yours. You have requested a short summary of the this discovery dispute. That summary is as follows.

Mr. Kraemer has been disclosed by Aimjunkies.com as a proffered expert witness in this matter. Bungie has transmitted a third-party subpoena to Mr. Kraemer, a copy of which is attached. Bungie's subpoena seeks certain information relating to Mr. Kraemer's employment with Honeywell, which is a United States government defense contractor. Mr. Kraemer feels concern about those portions of Bungie's subpoena for three primary reasons: 1) he worries about confidentiality concerns relating to his employment with Honeywell; 2) he worries that third-party discovery by Bungie either about Honeywell or to Honeywell could negatively impact or interfere with his employment with Honeywell; and 3) Mr. Kraemer worries that Bungie's subpoena to him may be intended to intimidate him from submitting his expert report in this matter, which is due Friday (I communicate this latter point as context, and not as an accusation toward Bungie or its counsel).

Bungie responds that it does not mean to seek discovery from or about Honeywell for any improper purpose. Bungie's counsel notes that the disclosure of Mr. Kraemer's credentials as a proffered expert witness reference his experience working at Honeywell. Accordingly, Bungie states that the portions of its third-party subpoena to Mr. Kraemer that relate to Honeywell are included only as a part of ordinary litigation diligence. Mr. Kraemer replies that he does not have any documents or information responsive to Bungie's inquiries regarding Honeywell because his expert testimony in this matter is entirely extracurricular to his employment there, and he has not discussed the proposed expert testimony he will offer with anyone at Honeywell.

We have conferred with Bungie's counsel productively and in good faith, but we have not, as yet, reached resolution on this matter.

Thank you and best,

John Du Wors

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**From:** Tyler Lichter [Tyler\\_Lichter@wawd.uscourts.gov](mailto:Tyler_Lichter@wawd.uscourts.gov)

**Sent:** Wednesday, June 7, 2023 10:28 AM

**To:** John Du Wors <John@newmanlaw.com>; Marcelo, Christian W. (SEA) <CMarcelo@perkinscoie.com>

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